



## Senate

General Assembly

**File No. 485**

January Session, 2005

Substitute Senate Bill No. 1189

*Senate, April 21, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE JUDICIAL REVIEW COUNCIL AND THE  
INDEMNIFICATION AND REPRESENTATION OF STATE OFFICERS  
AND EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 51-51l of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2005*):

4 (b) The [council] Judicial Review Council shall, not later than three  
5 business days after the termination of such investigation, notify the  
6 complainant, if any, and the judge, compensation commissioner or  
7 family support magistrate that the investigation has been terminated  
8 and the results thereof. If the council finds that conduct under section  
9 51-51i has not occurred, but the judge, compensation commissioner or  
10 family support magistrate has acted in a manner which gives the  
11 appearance of impropriety or constitutes an unfavorable judicial or  
12 magisterial practice, the council may issue an admonishment to the

13 judge, compensation commissioner or family support magistrate  
14 recommending a change in judicial or magisterial conduct or practice.  
15 If an admonishment is issued, the council shall (1) notify the joint  
16 standing committee of the General Assembly having cognizance of  
17 matters relating to the judiciary that an admonishment was issued and  
18 provide said committee with the substance of the admonishment,  
19 including copies of the complaint file, and (2) inform the complainant,  
20 if any, that an admonishment was issued [, provided] if the  
21 admonishment is the result of misconduct alleged in the complaint.  
22 [and] Except as provided in subdivision (1) of this subsection, the  
23 substance of the admonishment shall not be disclosed to any person or  
24 organization.

25 Sec. 2. Section 51-51q of the general statutes is repealed and the  
26 following is substituted in lieu thereof (*Effective October 1, 2005*):

27 (a) (1) The Judicial Review Council shall submit its  
28 recommendations concerning the nomination for appointment to a  
29 different court of any judge or nomination for reappointment of any  
30 judge whose term of office is about to expire, including a report of any  
31 complaint filed against any such judge and the disposition of any such  
32 complaint, and including any investigation of any such judge by the  
33 council, to the Governor, to the Judicial Selection Commission and to  
34 the [standing committee on judiciary of the House of Representatives  
35 and the standing committee on judiciary of the Senate, or joint  
36 standing committee on judiciary, as the case may be] joint standing  
37 committee of the General Assembly having cognizance of matters  
38 relating to the judiciary, provided the Judicial Selection Commission  
39 shall not consider any investigation of the Judicial Review Council  
40 which resulted in the exoneration of a judge. [The]

41 (2) In addition to the information required to be submitted under  
42 subdivision (1) of this subsection, the Judicial Review Council shall  
43 make all complaint files concerning any such judge available to the  
44 [chairmen and ranking members of the standing committee on  
45 judiciary of the House of Representatives, the standing committee on

46 judiciary of the Senate, or the joint standing committee on judiciary, as  
47 the case may be] joint standing committee of the General Assembly  
48 having cognizance of matters relating to the judiciary.  
49 Notwithstanding any provision of the general statutes, if the  
50 disposition of a complaint filed against any such judge involved the  
51 issuance of an admonishment to or the public censure or suspension of  
52 such judge, (A) no information pertaining to the complaint and the  
53 investigation and disposition of such complaint may be removed,  
54 redacted or otherwise withheld by the Judicial Review Council prior to  
55 making such complaint files available to said committee as required by  
56 this subdivision, and (B) the Judicial Review Council shall provide to  
57 said committee any information, including, but not limited to, any  
58 confidential information, in its possession concerning such judge that  
59 may be requested in writing by the cochairpersons of said committee.  
60 Such information shall be provided to said committee not later than  
61 three business days following the date the request is received by the  
62 Judicial Review Council. Any confidential information provided to  
63 said committee as required by this subdivision shall not be further  
64 disclosed to any person or organization.

65 (3) If the Judicial Review Council has reason to believe any such  
66 judge is guilty of [judicial] conduct under section 51-51i, material  
67 neglect of duty or incompetence in the conduct of his office, it may  
68 refuse to recommend such judge for nomination for appointment to a  
69 different court or for reappointment. The Judicial Review Council shall  
70 not recommend a judge for nomination for appointment to a different  
71 court or for reappointment if the council finds such judge has wilfully  
72 violated section 51-39a or has been convicted of a felony or of a  
73 misdemeanor involving moral turpitude.

74 (b) The Judicial Review Council shall submit its recommendations  
75 concerning the reappointment of any family support magistrate whose  
76 term of office is about to expire, including a report of any investigation  
77 of any such magistrate by the council, to the Governor.

78 (c) The Judicial Review Council shall submit its recommendations

79 concerning the nomination for reappointment of any compensation  
80 commissioner whose term of office is about to expire, including a  
81 report of any investigation of such compensation commissioner by the  
82 council, to the Governor and to the [standing committee on judiciary of  
83 the House of Representatives and the standing committee on judiciary  
84 of the Senate, or the joint standing committee on judiciary, as the case  
85 may be] joint standing committee of the General Assembly having  
86 cognizance of matters relating to the judiciary. The Judicial Review  
87 Council shall provide information to said committee concerning any  
88 complaint filed against such compensation commissioner and the  
89 investigation and disposition of such complaint, including, but not  
90 limited to, confidential information, in the same manner and subject to  
91 the same requirements as information provided under subdivisions (1)  
92 and (2) of subsection (a) of this section.

93 (d) If a complaint against any such judge, compensation  
94 commissioner or family support magistrate is received by the Judicial  
95 Review Council and the Judicial Review Council is unable to make its  
96 findings and complete its duties with respect to such judge,  
97 compensation commissioner or family support magistrate prior to the  
98 expiration of the term of office of such judge, compensation  
99 commissioner or family support magistrate, the Judicial Review  
100 Council shall not refuse to recommend such judge, compensation  
101 commissioner or family support magistrate for reappointment based  
102 on such complaint, but shall report the fact of such complaint to the  
103 Governor and to the joint standing committee [on judiciary] of the  
104 General Assembly having cognizance of matters relating to the  
105 judiciary.

106 Sec. 3. Section 5-141d of the general statutes is repealed and the  
107 following is substituted in lieu thereof (*Effective October 1, 2005*):

108 (a) The state shall save harmless and indemnify any state officer or  
109 employee, as defined in section 4-141, and any member of the Public  
110 Defender Services Commission from financial loss and expense arising  
111 out of any claim, demand, suit or judgment by reason of his alleged

112 negligence or alleged deprivation of any person's civil rights or other  
113 act or omission resulting in damage or injury, if the officer, employee  
114 or member is found to have been acting in the discharge of his duties  
115 or within the scope of his employment and such act or omission is  
116 found not to have been wanton, reckless or malicious.

117 (b) The state, through the Attorney General, shall provide for the  
118 defense of any such state officer, employee or member in any civil  
119 action or proceeding in any state or federal court arising out of any  
120 alleged act, omission or deprivation which occurred or is alleged to  
121 have occurred while the officer, employee or member was acting in the  
122 discharge of his duties or in the scope of his employment, except that  
123 the state shall not be required to provide for such a defense whenever  
124 the Attorney General, based on his investigation of the facts and  
125 circumstances of the case, determines that it would be inappropriate to  
126 do so and he so notifies the officer, employee or member in writing.

127 (c) Legal fees and costs incurred as a result of the retention by any  
128 such officer, employee or member of an attorney to defend his interests  
129 in any such civil action or proceeding shall be borne by the state only  
130 in those cases where (1) the Attorney General has stated in writing to  
131 the officer, employee or member, pursuant to subsection (b) of this  
132 section, that the state will not provide an attorney to defend the  
133 interests of the officer, employee or member, and (2) the officer,  
134 employee or member is thereafter found to have acted in the discharge  
135 of his duties or in the scope of his employment, and not to have acted  
136 wantonly, recklessly or maliciously. Such legal fees and costs incurred  
137 by [a state] such officer, [or] employee or member shall be paid to [the]  
138 such officer, [or] employee or member only after the final disposition  
139 of the suit, claim or demand and only in such amounts as shall be  
140 determined by the Attorney General to be reasonable. In determining  
141 whether such amounts are reasonable, the Attorney General may  
142 consider whether it was appropriate for a group of officers, employees  
143 or members to be represented by the same counsel.

144 (d) Such officer, employee or member may bring an action in the

145 Superior Court against the state to enforce the provisions of this  
146 section.

147 [(d)] (e) The provisions of this section shall not be applicable to any  
148 [state] such officer, [or] employee or member to the extent he has a  
149 right to indemnification under any other section of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	51-51l(b)
Sec. 2	<i>October 1, 2005</i>	51-51q
Sec. 3	<i>October 1, 2005</i>	5-141d

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Rev. Council	GF - Potential Cost	Less than 1,000	Less than 1,000
Comptroller - Adjudicated Claims Account	GF - Cost	Potential	Potential

Note: GF=General Fund

#### **Municipal Impact:** None

#### **Explanation**

The bill requires the Judicial Review Council (JRC) to notify the Judiciary Committee when it admonishes a judge and provide copies of the complaint file to the Committee. The JRC must also provide information to the Committee, upon written request by the Committee chairmen, related to the admonishment, public censure or suspension of any judge who is renominated or nominated to a different court or compensation commissioner who has been recommended for reappointment.

Since only one individual has received an admonishment, public censure or suspension during the last two fiscal years, any cost resulting from these provisions in the bill is expected to be negligible.

The bill also permits any state officer, employee or member of the Public Defender Services Commission to sue the state to recover their financial losses from any claim against them related to the discharge of their duties, and for which they have not already been indemnified by the state. It is anticipated that few such cases would apply. The cost of any single case could be significant, however, depending upon the magnitude of legal fees and costs incurred by any individual.

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**OLR Bill Analysis**

sSB 1189

**AN ACT CONCERNING THE JUDICIAL REVIEW COUNCIL AND  
THE INDEMNIFICATION AND REPRESENTATION OF STATE  
OFFICERS AND EMPLOYEES****SUMMARY:**

This bill requires the Judicial Review Council (JRC) to notify the Judiciary Committee when it admonishes a judge, workers' compensation commissioner, or family support magistrate and provide the substance of the admonishment and copies of the complaint file. Under current law, the JRC must inform the complainant that the admonishment was issued but the substance of an admonishment cannot be disclosed.

By law, the JRC must submit a recommendation to the Judiciary Committee when a judge is renominated or is nominated to a different court, including a report of any complaints filed, their disposition, and any investigations by the council. Under the bill, when a complaint against a judge results in admonishment, public censure, or suspension, the JRC (1) cannot remove, redact, or withhold any information about the complaint, investigation, or disposition before making the file available to the Judiciary Committee and (2) must give the committee any information it has about the judge that the committee chairmen request in writing, including confidential information. The bill requires the JRC to provide the information within three business days of receiving a request. It also prohibits further disclosure of confidential information given the committee.

The bill also places these same requirements on the JRC to give the committee information about any complaint, investigation, and disposition, including confidential information, when submitting its recommendation about the reappointment of a workers' compensation commissioner.

The bill also allows a state officer, employee, or member of the Public Defender Services Commission to sue the state in Superior Court to enforce the provisions on indemnification for their financial losses



from certain claims against them, such as negligence, based on their actions while discharging their duties or within the scope of their employment.

EFFECTIVE DATE: October 1, 2005

## **BACKGROUND**

### ***Judicial Review Council***

The JRC investigates complaints against judges, workers' compensation commissioners, and family support magistrates. It can publicly censure or suspend for up to one year a judge, commissioner, or magistrate; recommend that the Supreme Court suspend a judge or magistrate for more than one year; recommend that the Supreme Court remove a judge or magistrate; recommend that the governor remove a commissioner; or exonerate the judge, commissioner, or magistrate.

If the JRC finds that a judge's, commissioner's, or magistrate's conduct does not subject him to censure, suspension, or removal but it gave the appearance of impropriety or was unfavorable judicial or magisterial practice, the JRC can admonish the person.

### ***Indemnification***

By law, the state must indemnify a state officer, employee, or member of the Public Defender Services Commission for financial loss or expense from a claim or judgment based on negligence, deprivation of civil rights, or other acts or omissions causing damage or injury, if the person was acting in the discharge of his duties or scope of employment. Indemnification does not apply if the person acted wantonly, recklessly, or maliciously. The attorney general must defend the person unless it is inappropriate.

If the attorney general does not defend the person and it is later determined that his conduct is covered by the indemnification statute, the state must pay his legal fees and costs.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 40 Nay 0